Refers to the relationship between a citizen of a nation and the nation itself. Nationality may arise by birth or naturalization. It is also used to define the relationship between a state and a ship which is authorized by the state to fly its flag.

Under IHL, the status of ‘protected persons’ under GC IV is dependent upon nationality. With some exceptions provided for in the Convention, civilians who find themselves, in case of armed conflict or occupation, in the hands of a party to the conflict of which they are not nationals, are protected persons.

The ICTY’s Tadic decision suggested that in some situations, rather than nationality, allegiance to a party to the conflict should be considered in determining whether or not individuals qualify for the status of “protected persons.”

Under GC III, nationality is irrelevant in determining whether a person qualifies for combatant status in an IAC, but State practice differs when it comes to the question of whether a State will grant prisoner of war (POW) status to its own nationals captured fighting for a foreign army.

See Protected persons;
Definition of protected persons based on nationality

GCIV, 4 [5]

CASE


United Kingdom, The Case of Serdar Mohammed (High Court Judgment) [7]

ECHR, Al-Jedda v. UK [8]

BIBLIOGRAPHIC RESOURCE


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